

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ARFHY SANTOS,

Plaintiff,

-against-

UNITED STATE OF AMERICA, et al.,

Defendants.

**ORDER**


21-CV-08009 (PMH)

PHILIP M. HALPERN, United States District Judge:

Pre-motion conference held on 11/21/22. Counsel for all parties appeared. As discussed on the record, the Court heard argument on Defendant Sheehan's contemplated motion to dismiss Plaintiff's first claim for relief, raised under *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971) for Fourth Amendment excessive force. The Court construed Defendant Sheehan's pre-motion letter (Doc. 77) as his motion to dismiss, and considering the parties' arguments thereto, dismissed the motion for the reasons stated on the record. (*See* Transcript). The Court noted that Plaintiff's claim does not present a new *Bivens* context and that the Supreme Court's decision in *Egbert v. Boule*, 137 S. Ct. 1843, 1847 (2022) does not lead to a different outcome. *See Campbell v. City of Yonkers*, No. 19-CV-02117, 2020 WL 5548784, at \*8 (S.D.N.Y. Sept. 16, 2020); *see also Lehal v. Cent. Falls Det. Facility Corp.*, No. 13-CV-03923, 2019 WL 1447261 (S.D.N.Y. Mar. 15, 2019).

**SO ORDERED:**

Dated: White Plains, New York  
November 22, 2022

  
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PHILIP M. HALPERN  
United States District Judge